

# **State of North Dakota**

# **Risk Management**

# **Manual**

# Contents

<b>Purpose of the Manual.....</b>	<b>I</b>
<b>Section 1: The Risk Management Process in North Dakota..... 1.0-1</b>	
1.1 Origin of the Risk Management Program .....	1.1-1
1.2 State of North Dakota Risk Management Division Mission and Policy Statements....	1.2-1
Mission Statement.....	1.2-1
Policy Statement .....	1.2-1
Transfer and Financing of Risk.....	1.2-1
1.3 Key Risk Management Program Partners and Their Roles .....	1.3-1
Office of Management and Budget.....	1.3-1
The Risk Management Division .....	1.3-1
Identifying and Measuring Exposures .....	1.3-2
Risk Control .....	1.3-2
Risk Financing and Risk Analysis .....	1.3-2
Claims Adjudication .....	1.3-2
Risk Administration .....	1.3-3
State Entities .....	1.3-3
Summary of State Risk Financing .....	1.3-4
<b>Section 2: The Risk Management Fund..... 2.0-1</b>	
2.1 Memorandum of the Risk Management Fund Liability and Defense Coverage .....	2.1-1
Provisions of the Risk Management Fund.....	2.1-1
Damages Coverage .....	2.1-1
Coverage Limit .....	2.1-1
Defense Coverage .....	2.1-2
Exclusions .....	2.1-2
Immunity .....	2.1-4
Notice Requirement .....	2.1-4
Definitions.....	2.1-4
Other Coverages.....	2.1-5
2.2 Insurance Coverages .....	2.2-1
Types of Coverages.....	2.2-1
Liability.....	2.2-1
State Fleet.....	2.2-1
Professional Liabilities and Medical Malpractice.....	2.2-2
Aviation.....	2.2-2
Property.....	2.2-2
2.3 Certificates of Insurance and of Financial Responsibility .....	2.3-1

2.4 North Dakota Century Code Chapter 32-12.2 .....	2.4-1
2.5 Funding .....	2.5-1
State Agencies.....	2.5-1
Risk Management Fund Contribution Discount Program .....	2.5-1
Risk Management Fund Contribution Discount Program Application.....	2.5-3
Risk Management Fund Appropriations by Agency .....	2.5-6

### **Section 3: The Loss Reporting Process ..... 3.0-1**

3.1 Reporting Incidents and Accidents .....	3.1-1
When An Incident Occurs.....	3.1-1
Non-Vehicle Accidents .....	3.1-1
Vehicle Accidents .....	3.1-2
Timing.....	3.1-2
Claimant's Role .....	3.1-3
3.2 Reporting Claims .....	3.2-1
3.3 Reporting Lawsuits and Claims Against Purchased Insurances .....	3.3-1
Lawsuits .....	3.3-1
Insured Losses.....	3.3-1
Bond and Crime Losses .....	3.3-1
Property and Miscellaneous Property Floater Losses.....	3.3-1
3.4 Managing Claims .....	3.4-1
Making Statements.....	3.4-1
Collecting Evidence .....	3.4-1
3.5 Reporting Forms .....	3.5-1
Risk Management Fund Incident Report (SFN 50508)	
Risk Management Fund Motor Vehicle Accident Report (SFN 51301)	
State Risk Management Fund Notice of Claim (SFN 50552)	
Destruction Hold Notice (SFN 52376)	
3.6 Department Location Codes .....	3.6-1
3.7 Risk Management and Risk Management Workers Compensation Program	
Contacts.....	3.7-1

### **Section 4: Loss Control Policies, Procedures, and Practices ..... 4.0-1**

4.1 Components of a Loss Control System.....	4.1-1
Policies and Procedures .....	4.1-1
4.2 Loss Control Committees .....	4.2-1
Records .....	4.2-2
Meeting .....	4.2-7
Records Management Systems .....	4.2-12
The Importance of a Records Management System .....	4.2-12
The Application of a Records Management System in the Event of an	
Incident, Claim, or a Lawsuit.....	4.2-12
Open Records Requests .....	4.2-13
4.3 Facility Audit and Inspection Checklists .....	4.3-1
4.4 Loss Control Audits, Training, and Seminars.....	4.4-1
Loss Control Audits .....	4.4-1
Loss Control Seminars .....	4.4-1
Workplace Safety.....	4.4-1
Management's Role in Risk Control.....	4.4-1

Liability of State Employees in North Dakota.....	4.4-1
Proper Incident Reporting Procedures .....	4.4-1
Flex Training.....	4.4-2
4.5 Fire Emergency, Natural Disaster/Severe Weather, and Man-Made Disaster Procedures	
Fire Emergency Procedure.....	4.5-1
Natural Disaster/Severe Weather Procedure.....	4.5-6
Man-Made Disaster Procedure .....	4.5-10
4.6 Contingency and Disaster Planning .....	4.6-1
Vision Statement.....	4.6-1
Background and Purpose .....	4.6-1
Continuum of Government (COG) .....	4.6-2
Continuum of Operations (COOP) .....	4.6-2
Analyzing the Risk.....	4.6-3
Tips for Developing Your COOP Plan .....	4.6-4
Key Plan Components.....	4.6-4
Recovery Point Objective (RPO) .....	4.6-5
Recovery Time Objective (RTO) .....	4.6-5
Alternate Facilities .....	4.6-6
Memorandum of Understanding (MOU) .....	4.6-8
Testing .....	4.6-9
Resources.....	4.6-9
Emergency Notification Software – NotiFind .....	4.6-10
4.7 State Fleet Services .....	4.7-1
Regulations for Operating State Fleet Vehicle .....	4.7-1
Reporting Accidents.....	4.7-2
Defensive Driving .....	4.7-2
Operating Large Passenger Vans .....	4.7-2
4.8 Employment Practices Liability Exposures .....	4.8-1
Proactive Steps to address EPL.....	4.8-1
Employment Acknowledgement.....	4.8-2
Response to EPL Complaints.....	4.8-2
The Complaint.....	4.8-2
Evaluating the Complaint .....	4.8-3
Planning the Investigation .....	4.8-4
The Investigation.....	4.8-5
Evaluating the Investigation .....	4.8-6
The Investigation Report .....	4.8-7
Taking Corrective Action .....	4.8-7
The Final Investigation File .....	4.8-9
4.9 Automatic External Defibrillators (AEDs) .....	4.9-1
Implementing an Effective AED Program.....	4.9-1
4.10 First Aid Kits.....	4.10.1
Recommended Contents .....	4.10-1
Checklist .....	4.10.1
<b>Section 5: Contracts and Agreements .....</b>	<b>5.0-1</b>
5.1 Introduction.....	5.1-1
Establishing Contractual Risk Management Guidelines .....	5.1-1
Screening Contractors.....	5.1-2

Safety Requirements for Bid Specifications and Contracts.....	5.1-4
Spoliation (Notice of Potential Claims) Clause .....	5.1-5
Contractual Risk Transfer Through Indemnification/Hold Harmless Clauses .....	5.1-5
Insurance Requirements for Contractors .....	5.1-8
Additional Insureds.....	5.1-9
Determining Appropriate Indemnification and Insurance Provisions .....	5.1-11
Risk Management Analysis Matrix .....	5.1-12
Sample Form of Indemnification and Insurance Provisions for:	
-- Intermediate Exposure with Additional Insured Endorsement .....	5.1-13
-- Limited Exposure with Certificate of Insurance Requirement .....	5.1-17
-- Inter-Agency and Routine Political Subdivision Agreements .....	5.1-20
-- Routine Agreements with Political Subdivisions where Subcontractor is involved .....	5.1-22
Large Construction or High Risk Contracts.....	5.1-25
Limiting the Liability of Certain Vendors .....	5.1-26
Application for Approval to Limit the Liability of a Vendor (SFN 54345) .....	5.1-27
Certificates of Insurance and Endorsements.....	5.1-28
Sample Letter when Certificate is Inadequate.....	5.1-29
Sample Letter for Expiration of Certificate of Insurance.....	5.1-30
Sample Certificate of Insurance.....	5.1-31
Sample CG 20 10 11 85 Endorsement.....	5.1-32
5.2 Special Use Agreements .....	5.2-1
Facilities Use Agreements .....	5.2-1
Special Events Waivers of Liability, Indemnification, and Medical Releases .....	5.2-1
Facilities Use Agreement Form .....	5.2-2
Waiver of Liability, Indemnification, and Medical Release Form .....	5.2-3
Parent's or Guardian's Agreement of Waiver of Liability, Indemnification, and Medical Release Form .....	5.2-4

## **Section 6: Other Risk Financing Resources .....6.0-1**

6.1 North Dakota Department of Insurance Special Funds Division.....	6.1-1
State Fire and Tornado Fund.....	6.1-1
State Bonding Fund.....	6.1-1
Petroleum Tank Release Compensation Fund .....	6.1-2
Boiler Inspection Program .....	6.1-2
Anhydrous Ammonia Program .....	6.1-3
Fund Contacts .....	6.1-3
6.2 North Dakota Workforce Safety and Insurance.....	6.2-1
Purpose of Workforce Safety and Insurance .....	6.2-1
Benefits .....	6.2-1
Premiums .....	6.2-1
6.3 North Dakota Insurance Reserve Fund .....	6.3-1

## **Section 7: Risk Management Bulletins .....7.0-1**

## **Section 8: North Dakota State Employee Defense .....8.0-1**

8.1 Introduction.....	8.1-1
Definitions.....	8.1-1

Link to Publications .....	8.1-1
-- Liability of State Employees in North Dakota .....	8.1-1
-- Preparation for Testifying Guidelines .....	8.1-1
-- What to Expect If You Get Sued: A Litigation Handbook for ND State Employees .....	8.1-1
8.2 Safeguards Provided to and Obligations Required of State Employees .....	8.2-1
8.3 How Does a Lawsuit Evolve.....	8.3-1
State Court Lawsuits .....	8.3-1
-- Tort Caps .....	8.3-1
-- Notice Requirement.....	8.3-1
Federal Court Lawsuits .....	8.3-1
The Evolution of a Lawsuit.....	8.3-1
8.4 Discussion.....	8.4-1
8.5 Request for Legal Defense .....	8.5-1
Request for Legal Defense Form	

<b>Section 9: The Risk Management Workers Compensation Program.....</b>	<b>9.0-1</b>
9.1 Introduction.....	9.1-1
9.2 Employee Responsibilities.....	9.2-1
Reporting Incidents and Accidents .....	9.2-1
Contributing Factors .....	9.2-2
Transitional Duty .....	9.2-2
Permanent Physical Limitations .....	9.2-2
9.3 State Entity Responsibilities .....	9.3-1
Facilitating the Reporting of Workplace Incidents and Accidents .....	9.3-1
Risk Management Workers Compensation Contact.....	9.3-1
Designated Medical Provider.....	9.3-1
Incident Reporting .....	9.3-2
Traumatic Injury Reporting .....	9.3-2
Routine Injury Reporting .....	9.3-2
Family and Medical Leave Act.....	9.3-3
Temporary Total Disability.....	9.3-4
Transitional Duty Assignment .....	9.3-4
Failure to Participate in Transitional Duty Program.....	9.3-5
Follow-up to Reported Incident or Injury .....	9.3-5
9.4 Transitional Duty Program .....	9.4-1
Purpose.....	9.4-1
Implementing the Transitional Duty Program .....	9.4-1
State Responsibilities .....	9.4-1
State Entity Responsibilities .....	9.4-2
Employee Responsibilities.....	9.4-3
Transitional Duty Assignment Defined .....	9.4-4
9.5 Permanent Disabilities .....	9.5-1
Reassignment Rights.....	9.5-1
9.6 Premium Discount Program.....	9.6-1
History.....	9.6-1
Requirements of the Risk Management Workers Compensation Discount Program .....	9.6-1

How to Apply for the Discount Program .....	9.6-3
Risk Management Workers Compensation Program Dividend Program .....	9.6-3
<b>9.7 Risk Management Workers Compensation Program Forms .....</b>	<b>9.7-1</b>
State of North Dakota Transitional Duty Program Risk Management Contact and Supervisor Checklist .....	9.7-2
Letter to Medical Provider .....	9.7-5
State of North Dakota Workers' Compensation Leave Choice Option .....	9.7-6
Designated Medical Provider Form .....	9.7-7
FMLA Notice to Injured Employee .....	9.7-8
State of North Dakota Temporary Transitional Duty Assignment .....	9.7-9
Risk Management Workers Compensation Program Premium Discount Application.....	9.7-11
<b>Section 10: Glossary.....</b>	<b>10.0-1</b>

# **Purpose of the Manual**

This manual is designed to help State of North Dakota employees protect the assets of the State through efficient and effective management of risks.

Published by the Office of Management and Budget, the manual offers steps for handling a variety of routine risk management and insurance issues and answers frequently asked questions. It includes sample forms and contract wording, along with resources for additional information. The manual is designed so that information can be easily updated as needed.

The manual is not meant to be the sole source of risk management information, nor is it a legal document. If questions arise that the manual does not answer, please contact:

**Johanna Zschomler, Director  
Risk Management Division  
Office of Management and Budget  
1600 East Century Ave, Suite 4  
Bismarck, ND 58503-0649  
Phone: (701) 328-7580  
Fax: (701) 328-7585**